laid down in the *Kernochan* case to the special circumstances there found to exist. The *Kernochan* case was distinguished, partly on the ground that an elevated railroad involves the appropriation of an easement rather than the existence of a true nuisance; partly, also, because there was a structure necessarily permanent, unlike the ordinary nuisance, which should never be deemed permanent in theory of law. The latter reason suggests the best basis for a distinction. Though a nuisance may be permanent in the sense that it is likely to continue till abated, yet it is abatable at any time. But an elevated railroad company, or other corporation exercising a quasi-public function and possessing the right of eminent domain, cannot be compelled to cease its operations. All that can be done is to compel it to pay for the property rights it has appropriated. Hence its interferences with the use of property have more than the permanence of the ordinary nuisance; they are really perpetual. In such cases the rule of the *Kernochan* case might be allowed to stand as reasonable and practically just.

PROPERTY RIGHTS IN EXCHANGE QUOTATIONS.—The decision in the recent case of the *Chicago Board of Trade* v. *The Christie Grain and Stock Co.* (C. C., W. D. Mo., 1902), 116 Fed. 944, which holds that a Board of Trade has property rights in the quotations made on its exchange and gathered through the agency of its employes seems sound. In *Kiernan* v. *The Manhattan Quotation Tel. Co.* (1876) 50 How. Pr. 194, a press agency had collected financial news abroad and cabled it to New York. While the information was public property in Europe, to which all were entitled, the Court recognized that the labor and expense of collecting and transmitting it made the dispatches in which it was conveyed private property. If the holding were otherwise, no one could prevent the publication of his private dispatches, if they related to public events. The right of any one else to gather the same information in Europe and forward it to America in the same way was conceded. The case was similar to that of the publisher of a business directory, who, it was held, could not reprint the names and addresses given in a rival directory. He must gather them for himself, although with apparently identical results. *Kelly* v. *Morris* (1866) L. R., 1 Eq. 697.

The publication of such news may or may not make it public property. This depends on whether such publication is general or restricted. Mere transmission to customers, however numerous, does not constitute general publication, if the intent was otherwise. In the principal case, the rules of the Board of Trade showed a clear intention to restrict publication. In the *Kiernan* case, *supra*, the use of the European financial news, during the first thirty minutes after its arrival in New York had been sold by the press agency to X, who had in turn sold its use for the first fifteen minutes to the plaintiff. The latter transmitted it to its customers by "manifold slips" and telegrams. Its property rights in it were upheld on the ground that there had been only restricted publication. Analogies in the representations of otherwise unpublished dramas on the stage and in the receipt of private correspondence suggest themselves. *Palmer* v. *DeWitt* (1872) 47 N. Y. 532; *Woolsey* v. *Judd* (1855) 4 Duer 379. Equity likewise recognizes property rights in news received from

"tickers." *National Tel. News Co.* v. *W. U. Tel. Co.* (U. S., C. C. A., 1902), Chicago Legal News for Nov. 1.

The plaintiff's contention in the principal case that the quotations of the Chicago Board of Trade are so affected by public interest that they must be furnished to all who are willing to comply with the rules of the Board was properly denied. *Met. G. & S. Exch.* v. *Chi. Bd. of T.* (1883) 15 Fed. 847; *Bryant* v. *Western U. T. Co.* (1883) 17 Fed. 825. But see note to latter, and *N. Y. & Chi. G. & S. Exch.* v. *Chi. B. of T.* (1889) 127 Ill. 153. Public control extends only to businesses affected by public interest. This was not such a business; for this corporation enjoyed no more protection or privilege from the State than any other citizen. *Wilson* v. *Com. Tel. Co.* (1888) 3 N. Y. Supp. 633.

The most satisfactory remedy open to the owner of such property, when his rights have been violated, is in equity. If the owner is a grain or stock exchange, the usual preliminary defense is the assertion that the plaintiff runs a "bucket-shop" or gambling business in violation of law and that this deprives him of all rights in equity, since his own hands are not clean. Even if the plaintiff admits a general right in the public to his quotations, but denies them to the defendant on the ground that the latter conducts a "bucket-shop," the relevancy of this defense appears doubtful. If the plaintiff chooses to stand on his general rights in private property, such a defense would be defeated by the rule in equity that only misconduct in connection with the matter in litigation is relevant. 1 Pommeroy, Equity Jur. § 400. In the discussion of the principal case this point may be omitted, since the mere assertion that the Chicago Board of Trade is a "bucket-shop" cannot overcome the presumption created by its rules against gambling, and by the vast amount of unquestionably legitimate business transacted on its floor. But the testimony as to the alleged gambling, which was given in the somewhat similar case of the *Chi. Bd. of T.* v. *O'Dell Com. Co.* (1902) 115 Fed. 574, should make interesting reading for those charged with the enforcement of law in Illinois.

THE JURISDICTION OF EQUITY OVER CRIMINAL PROCEEDINGS.—The fact that the jurisdiction of a court of equity is exclusively civil is due partly to the manner of its establishment and in part to the complexion of English jurisprudence at the time when the early chancellors first began to issue writs under the great seal of the king and to try causes. To the Court of King's Bench the king had already allotted a supreme original jurisdiction formerly exercised by the aula regis or court of the king. Crompton King's Bench and Common Pleas, Int., p. xxvii. The jurisdiction of a court of equity consisted of that portion of the king's prerogative which he had not delegated to his judges by writ. Langdell's Summary of Equity Pleading, p. 28. When, therefore, a court of equity was asked to enjoin a criminal proceeding, it was confronted with a peculiar situation. By a fiction of the law the king was deemed to be so much a party to a criminal cause that a non-suit could not be entered, but the prosecutor must enter a nolle prosequi, 1 Bl. Com. 269, 270. It was but natural that the result should be reached that equity would not interfere where the petition